

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**December 17, 2007**  
**6:00 P.M.**

**Time & Place** A regular City Commission meeting was held on Monday, December 17, 2007 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

**Members Present** Mayor Smith indicated for the record that Commissioners Cartwright, Oitzinger, Peura and Throssell were present. City Manager Tim Burton, City Attorney David Nielsen and City Clerk Debbie Havens were present. Others present were Marshall Gingery representing the Helena Citizens Council.

**Pledge of Allegiance** Mayor Smith asked members of Boy Scout Pack 215 to lead the the pledge of allegiance.

**Minutes** The minutes of the regular City Commission meeting of December 3, 2007 were approved as submitted.

**Proclamation** Proclamation:  
A. Homeless Persons' Memorial Day – Mayor Smith read the Homeless Persons' Memorial Day proclamation into the record and presented it to Curt Chisholm and Tom Huddleston.  
Mr. Chisholm and Mr. Huddleston thanked Mayor Smith for the proclamation and announced there is a Homeless Persons' event on Friday, December 21<sup>st</sup> at 12:00 noon in Woman's Park and invited the City Commission to attend. Mr. Chisholm recognized the members of the Memorial Committee which includes the following agencies: RMDC, Governor's Council on Homelessness, Health Care for the Homeless, The Way Home Committee and the U.S. Veterans Administration.  
Mr. Huddleston asked the commission to consider waiving the \$50.00 deposit and noise permit requirements for the event on December 21<sup>st</sup>. He then formally requested the Commission schedule a work session on "homelessness in Helena early in the first quarter of calendar year 2008.

**Appointments** APPOINTMENTS:  
A. Business Improvement District/Helena Park Commission  
B. Board of Adjustment  
C. Lewis & Clark Library Board  
D. Public Art Committee

Mayor Smith recommended the following appointments:  
**Board of Adjustment** - Appointment of Cory Swanson to the Board of Adjustment, alternate member. The unexpired term will begin upon appointment and expire October 1, 2009.  
**BID/HPC** - Appointment of Marti Bara to the BID/HPC. Term will begin upon appointment and expire October 31, 2011.  
**Lewis & Clark Library** Reappointment of Sandi Conrady to a first full term. Term will begin upon appointment and expire on January 1, 2013.  
**Public Art Committee** Reappointment of George McCauley and Linda McCray to the Public Art Committee. Terms will begin upon appointment and expire on December 31, 2010.

Public Comment Mayor Smith called for public comment, none was received.

**Motion** **Commissioner Cartwright moved approval of the appointments of Cory Swanson to the Board of Adjustment; Marti Bara to the Business Improvement District/Helena Parking Commission; the reappointments of Sandi Conrady to the Lewis & Clark Library and Linda McCray and George McCauley to the Public Art Committee.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. Acceptance of the 2007 Comprehensive Annual Financial Report (CAFR)  
C. Utility Bill Insert - 10-Million-Penny Campaign  
D. Consider a resolution for the submittal of a joint application for a Preserve America designation for the City of Helena and Lewis and Clark County. **Resolution 19532**  
E. Utility Adjustment Agreements from Montana Department of Transportation - Montana Avenue-Lyndale to Custer and Montana Avenue-Cedar to Custer

City Manager Tim Burton recommended approval of the claims and the consent agenda items B, D and E. He noted the utility bill insert has been removed from consideration.

Mayor Smith reported the Audit Committee met and was presented with an excellent audit report from Galusha Higgins & Galusha.

Public Comment Mayor Smith asked for public comment, none was received.

**Motion** **Commissioner Peura moved approval of items A, B, D and E on the consent agenda.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
Commissioner Oitzinger wished Commissioner Throssell well and thanked him for serving on the commission. Commissioner Oitzinger reminded everyone to return his or her HCC ballots.

Commissioner Cartwright thanked Commissioner Throssell for his service on the commission. Commissioner Cartwright noted the 10-Million-Penny Campaign is an important effort and he would like to discuss it at a future meeting.

Commissioner Peura thanked Commissioner Throssell for serving on the commission and for his expertise in land use issues. Commissioner Peura reiterated Mayor Smith's comments on the excellent audit the City of Helena received. Commissioner Peura echoed Commissioner Oitzinger's reminder to return the HCC ballots and thanked the IR for publishing the HCC candidate's profiles.

Mayor Smith recognized Commissioner Throssell for his service on the commission and for the work he has done. He then presented Commissioner Throssell with a framed picture of the city.

**Report of the City Attorney** REPORT OF THE CITY ATTORNEY  
No report was given.

**Report of the City  
Manager**

REPORT OF THE CITY MANAGER

City Manager Burton thanked Commissioner Throssell for serving on the commission and the opportunity to work with him.

**Report from the  
Helena Citizens**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Marshall Gingery offered a season's greeting to everyone. He too reminded everyone to return the HCC ballots and noted the HCC members would be sworn in on January 28<sup>th</sup> and the first HCC meeting would be January 30<sup>th</sup>, 2008.

Marshall Gingery recognized Commissioner Throssell for his expertise when serving on the Planning Board and for his service on the City Commission.

The HCC plans on submitting a project list in early 2008 for commission input and comments.

**Appointment of City  
Judge Elect**

CONSIDER THE APPOINTMENT OF CITY JUDGE-ELECT BOB WOOD, EFFECTIVE JANUARY 1, 2008 TO JANUARY 7, 2008, TO FILL THE JUDICIAL VACANCY THAT WILL OCCUR UPON JUDGE MYRON PITCH'S RETIREMENT AT CLOSE OF BUSINESS ON DECEMBER 31, 2007.

Staff Report

Court Administrator Claudia Bagley reported Judge Pitch will retire at the close of business on December 31, 2007. Pursuant to 7-4-4107, MCA, the newly elected judge is to be sworn in on the first Monday in January, which is January 7, 2008.

Court Administrator Bagley recommended the commission approve the appointment of Bob Wood to fill the judicial vacancy that will occur upon Judge Pitch's retirement, effective January 1, 2008 to January 7, 2008.

Public Comment

Mayor Smith called for public comment, none was received.

Motion

**Commissioner Cartwright moved the appointment of City Judge-Elect Bob Wood, effective January 1, 2008 to January 7, 2008, to fill the judicial vacancy that will occur upon Judge Myron Pitch's retirement at close of business on December 31, 2007.**  
Commissioner Peura seconded the motion. All voted aye, motion carried.

**Donation of Parkland**

CONSIDER A DONATION OF PARKLAND FOR THE ASPEN PARK AT MOUNTAIN VIEW MEADOWS SUBDIVISION.

Staff Report

Parks & Recreation Director Randy Lilje referred the commission to a proposal from Mr. Greg Dahl of the R and D Partners, LLC. To donate approximately 7.8 acres of land to the City of Helena to be used as parkland within the Aspen Park at Mountain View Meadows Subdivision. The parkland dedication under the subdivision statute has already been met. Mr. Dahl is proposing to donate this land as parkland with trail routes to tie-in with other trails planned for the subdivision. The developer also agrees to construct the trails within the parkland as the other trails along the streets get developed.

At its December meeting the City-County Parks Board reviewed this proposal. The Board's concerns were: 1) How will this land provide recreational value to the parks system, and 2) Will this be a drain on the City Parks budget?

The parkland will add recreational value to the parks system in that it will provide additional trails to the trail system of the subdivision. The land also has potential for a sledding hill for the neighborhood. In regard to the maintenance of the land, the developer has already agreed to the establishment of a parks maintenance district for the subdivision. When the district gets established the revenue generated will be applied to the maintenance of this parkland as well.

Having satisfactorily answered the Park Board's questions, they voted unanimously to recommend that the City Commission accept the donation of land identified on the attached exhibits.

Director Lilje recommended the commission approve acceptance of the donation by R and D Partners, LLC of 7.795 acres of land identified on Exhibit "C" as Lot 9 and on Exhibit "B" as Tract A in the Aspen Park at Mountain View Meadows Subdivision for parkland purposes.

Commission comment

Commissioner Peura asked if the annexation has been completed and is the parkland within the city limits. Mr. Lilje stated the property has not been annexed, that will occur at the same time the final plat is approved and filed. Commissioner Peura asked if the dedication of the parkland then would become a part of the final plat and annexation and the city would not immediately take the dedication of it and would not be creating any responsibility for the land until annexation has occurred. City Attorney Nielsen explained until the final plat is filed, the city does not have a description of record upon which to transfer the property. This proposal is an acceptance of that intent and the paperwork would follow after annexation is finalized.

Public comment

Mayor Smith asked for public comment.

Mr. Greg Dahl, R and D Partners, LLC representative, appeared before the commission to discuss the additional parkland donation. Mr. Dahl stated the applicant's hope is to have final plat approval heard before the commission on January 28, 2008. Mr. Dahl asked the commission to consider accepting the donation prior to December 31, 2007 for tax purposes.

Commissioner Dahl showed the location of the proposed donated parcel and the connectivity with the property and subdivision.

Commissioner Cartwright stated if this were approved tonight, the city would take ownership prior to annexation and asked if this created any problems the commission needs to be concerned about? City Attorney Nielsen stated he does not anticipate any problems.

Commissioner Cartwright stated there is an excellent trail system throughout this development; however, his discussion of connectivity had to deal with the lengths of the blocks and the accessibility to the parkland for pedestrians.

Commissioner Peura stated while he wants to share the optimism that the final plat and the annexation would be approved by the end of January 2008, the commission's role is to make sure to prepare for anything that might happen. He then asked if the commission could condition the motion such that the commission is accepting the dedication for the parkland and until such time the final plat is finalized and the property is annexed into the city, that the owner would be responsible for any maintenance and/or upkeep. City Attorney Nielsen explained the owners would present a deed to the city, which the city would hold because it cannot be recorded until the final plat is filed. As a

matter of public record, the city would not take ownership. The city and the developer would agree that the city has accepted the parkland and becomes the owner, but not as far as the public record. Until the deed is recorded, the acceptance is not finalized.

Commissioner Peura stated his objective of conditioning the motion is essentially going to occur through the transaction of when the deed is recorded. City Attorney Nielsen concurred.

**Motion**

**Commissioner Peura moved acceptance of the donation by R and D Partners, LLC of 7.795 acres of land identified on Exhibit "C" as Lot 9 and on Exhibit "B" as Tract A in the Aspen Park at Mountain View Meadows Subdivision for parkland purposes.**

Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Commission Comment**

Mayor Smith thanked the developers for the additional parkland donation.

**Helena Growth Policy**

CONSIDER A RESOLUTION OF INTENTION TO AMEND THE 2001 CITY OF HELENA GROWTH POLICY BY ADDING A CHAPTER ADDRESSING THE WILDLAND-URBAN INTERFACE AREA (WUI), RATIFYING AND AFFIRMING THE 2001 GROWTH POLICY.

**Staff Report**

Planner Elroy Golemon acknowledged the following groups who worked on the drafting of the document: City of Helena Building Division, City Attorney's Office, Community Development Office, Fire Department, Parks & Recreation Department, Public Works Department, Lewis & Clark County GIS Office, Bureau of Land Management, Federal Emergency Management Agency, Montana Department of Natural Resources and Conservation, Tri-County Fire Safe Working Group, Helena National Forest and US Forest Service.

Planner Elroy Golemon reported on November 27, 2007 the Lewis and Clark and City of Helena Consolidated Planning Board recommended approval to amend the 2001 City of Helena Growth Policy to include a chapter that addresses the Wildland-Urban Interface area (WUI) as outlined in Section 76-1-601 (3.j) MCA.

Section 76-1-601 (3.j) MCA requires a Growth Policy to include an evaluation of the potential for fire and wildland fire in the jurisdictional area. This evaluation must include an analysis of whether or not there is a need to delineate the Wildland-Urban Interface, and whether there is a need to adopt regulations to require, defensible space around structures, adequate ingress and egress to and from structures and developments to facilitate fire suppression activities, and adequate water supply for fire protection. The proposed amendment addresses the requirements of Section 76-1-601 (3.j) MCA, and establishes goals, objectives and policies for the City of Helena Wildland Urban Interface.

The proposed Wildland-Urban Interface Growth Policy Chapter addresses the requirements outlined in Section 76-1-601 (3.j) MCA. Further, the adoption of this proposed amendment to the Growth Policy will assist current and future community decision-makers and stakeholders in implementing relevant policies and regulations for the WUI area in the City of Helena. Mr. Golemon reviewed the content of the Wildland –Urban Interface Chapter.

Planner Golemon recommended approval of a resolution of intention to amend the 2001 City of Helena Growth Policy by adding a chapter addressing the Wildland-Urban Interface area (WUI), ratifying

and affirming the 2001 Growth Policy and set a public hearing date for January 7, 2008.

Commission Comment Commissioner Cartwright stated in order for the public to understand the process, the commission would adopt the policy change and then at a further date the commission would consider an ordinance for a proposed zoning district.

Commissioner Peura asked Mr. Golemon to show the commission on the Spot-Fire map where the Spring Meadow Fire occurred and stated it might be important to add a circle with concentric circles related to Spring Meadow fire to the map. Fire Chief Larson explained the circles were developed off the behaved fire program with the spotting characteristics to be able to accurately demonstrate the type of trees, the elevations, the spacing and the science. Chief Larson noted adding this area would not be possible as there are no trees to get the accurate information. Commissioner Peura thanked Fire Chief for his explanation and noted there are areas of concern that are not specifically highlighted on the spot map.

Commissioner Oitzinger asked for further explanation on the process and asked what will happen at the January 7, 2008 commission meeting. Planner Golemon explained the Zoning Commission has voted and is recommending the commission create a zoning district. At the January 7<sup>th</sup> City Commission meeting there will be a public hearing on the resolution to amend the 2001 City of Helena Growth Policy and first passage of an ordinance to create a zoning district.

Mayor Smith commented that staff noted there has not been a lot of public comment received on the proposal and asked what opportunities have there been for public input. Mr. Golemon noted staff held several community meetings and it has been on the Community Development web page. There has been several out-reach efforts to reach the citizens. A joint public hearing with the Planning Board and Zoning Commission was held on November 27, 2007.

Public Comment Mayor Smith called for public comment. Pat McKelvey, Project Manager for Tri-County Fire Safe Working Group, spoke in support of the resolution of intention to amend the 2001 City of Helena Growth Policy. Mr. McKelvey noted the City of Helena is the first in the state of Montana to address this issue.

Motion **Commissioner Peura moved approval of a resolution of intention to amend the 2001 City of Helena Growth Policy by adding a chapter addressing the Wildland-Urban Interface area (WUI), ratifying and affirming the 2001 Growth Policy and set a public hearing date for January 7, 2008.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution 19533**

**Comstock Road** CONSIDER ACCEPTING THE RIGHT OF WAY DEDICATION FOR A PORTION OF COMSTOCK ROAD AND SCOTT DRIVE GENERALLY LOCATED NORTH OF BELT VIEW DRIVE.

Staff Report Planner Lucy Morell-Gengler reported the current plat of the Belt View Planned Unit Development Addition indicates Comstock Road and Scott Drive are 30-foot wide private drives that were never dedicated to the City. The property served by these streets is in Block 7 of the Belt View Planned Unit Development Addition and was allocated 38 residential units as part of the PUD process. The present property

owners are improving these streets and would like to dedicate the streets within their property to the city and to conform as best as possible to current city standards for street construction. The new rights of way would be between 40 and 35 feet wide and the cul-de-sac would be enlarged to accommodate emergency vehicles.

Planner Morell-Gengler recommended accepting the rights-of-way dedication for Comstock Road and Scott Drive as shown on the Amended Plat of the Belt View Planned Unit Development Addition.

**Commission Comment**

Commissioner Peura asked for clarification on the wording of "to conform as best as possible to current city standards for street construction." Ms. Morell-Gengler explained the right-of-width is not a typical right-of-way width; it wasn't there with the platting of the property. The terrain is very steep and to enlarge it further would require larger cuts. There will be a sidewalk on one side of the street but not on both. Commissioner Peura commented the design is primarily a width issue and the street itself will have curbs and gutters and sidewalk on one side. Planner Morell-Gengler concurred.

Commissioner Cartwright asked what would the road grade be? Public Works Director John Rundquist stated the roads were designed to meet the maximum grade of 10%.

Mayor Smith referred to the vicinity map and asked who owns the adjacent property that is zoned PLI? Ms. Morell-Gengler noted Intermountain Children's Home owns the property. Mayor Smith asked when the road construction would be completed. Ms. Morell-Gengler stated the road construction should be completed very soon; however, she could not estimate the build-out of the PUD.

**Public Comment**

Mayor Smith called for public comment, none was received.

**Motion**

**Commissioner Cartwright moved acceptance of the right of way dedication for a portion of Comstock Road and Scott Drive, as shown on the Amended Plat of the Belt View Planned Unit Development Addition.** Commissioner Peura seconded the motion. All voted aye, motion carried.

**Public Communications**

**PUBLIC COMMUNICATIONS**

Marshall Gingery, 2522 Primrose Lane, referred to the earlier presentation from Greg Dahl and expressed concerns that those in the audience could not see the exhibits being shown to the commission. Mayor Smith thanked Mr. Gingery for his comments.

**Meetings of Interest**

**MEETINGS OF INTEREST**

The next Administrative Meeting is January 2, 2008 and the next Commission Meeting is January 7, 2008.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission